

Gravel Extraction Ordinance – Draft 8

To: Planning Board, Selectmen
From: Stu Marckoon
Date: June 1, 2015

All the notations from drafts 7 and 7A (the highlighted version) were addressed in the recent workshop (5/28/15) between the Selectmen and the Planning Board. Draft 7A proposed some additional enforcement language that was not contained in draft 7. This additional language caused the formatting issues when it was inserted. Let me outline some of the changes that are included in draft 8 which may (or may not) address some of the issues from the workshop:

Section 6 – Applicability – The workshop agreed to increase the applicable amount of removal to be 1,000 cubic yards to require a gravel permit. If this is a project such as a large commercial building that requires moving more material, the wording of this section requires the Planning Board to find that such removal is planned and necessary to accomplish the project (which most likely would require site plan review). This solves the large residence concerns, and even if there is a large house application, the CEO would be required to pass this along to the Planning Board which may find that it is not applicable under the gravel ordinance.

Section 7C4j – A new requirement to the application showing the location of large noise making machines was added, and requiring the applicant to show that such machines will be compliant with the noise restrictions in section 8. (Please note that no changes to the noise restrictions in section 8 have been proposed).

Section 7C5cii – The version I printed failed to change the word “in” to “by”. The electronic version now has that change. (I hit the print button prior to writing this memo, and caught that on the 2nd read through).

Section 7E2 & 3 – This was updated to include the website posting of the site walk, and to clarify that the date the Planning Board finds the application complete starts the clock ticking on the public hearing date.

Section 7F – By agreement with both boards, this extends the maximum life of the permit to 5 years.

Section 7H – This is where the additional enforcement language was added to the highlighted 7A version which had not been in the previous version 7. Some minor grammar changes to this language was made.

Section 7H6 – This had notations to seek legal counsel. Lacking the authority to do so, I lifted the language from the Building and Land Use Ordinance, and combined 3 paragraphs into two.

Section 8A – No changes are proposed to the setback provisions. It should be noted that the current gravel ordinance defaults to a 100-foot minimum setback, but provides for a 50-foot setback, though the applicant has to go through some hoops to do so. One of them is that a Site Plan Review permit has previously been granted, and all the currently permitted pits had received such a permit, to the best of my knowledge.

Section 8A2 - The setback conditions from private water supplies now make reference to state statute. The public water setback changes the word supply to source to mirror state language. What doesn't mirror state language is the 1,000 foot setback regardless of the size of the public water system. The state language allows less of a setback for smaller systems.

Section 8D2 – Adds language requiring the restoration plan be noted in the marginal references on the deed.

Section 8H- puts a March 1 annual report deadline into the requirement.

Section 9 – the definitions are now in alphabetical order.

I hope that this accurately reflects everything that the two boards discussed on May 28, 2015. Please, carefully explore this latest draft and point out (in writing if possible) anything inconsistent with that discussion, any formatting or other language errors, and anything else that might have been overlooked.

I took the opportunity to review the report from the Gravel Work Group produced just about a year ago. I believe the proposed ordinance addresses pretty much every issue that the Work Group identified in that report. Many of the issues involve water testing, and the proposed ordinance makes it clear that an applicant can propose a testing plan for the application but not be required to install the monitoring wells prior to Planning Board consideration. The proposed ordinance gives a great deal of flexibility to the Planning Board to accept such plans which are responsive to the desired goal of setting baseline water quality testing results and then tracking the results over the life of the operation.

Next Steps – If the Selectboard and Planning Board are in agreement that this is a document that could go before the voters, I would suggest the following steps:

1. Have Dan Pileggi look it over, offer it to the gravel operators (i.e. Steve Salsbury and Ed Bearor), and get any final thoughts from them as to changes to propose.
2. The document should be presented to the public for more information and opinion gathering.
3. If anything substantive comes from the public session(s) that could be altered for a final document to go to the voters, possibly in November.
4. A public hearing would be required if this is to be a referendum vote.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen